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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No.2612 of 2017

- Etiyal Peter @ Rinku S/o Peter Patrick Aged About 22 Years Residing Of Omnagar Jarhabhata, Police Station Civil Line, District Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Civil Line, District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Shri PK Tulsyan, Advocate
For Respondent/State : Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

09.5.2017

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.754/2016 registered in Police Station Civil Line, District Bilaspur for the offence punishable under Sections 294, 324, 506B, 307 and 34 of the Indian Penal Code and under Section 25 of the Arms Act.

3. Learned counsel for the applicant submits that the applicant has been arrested on 21.12.2016, the matter is pending before Fifth Additional Sessions Judge, Bilaspur as Session Trial No.39/2017. Learned counsel for the applicant would submit that the applicant is in jail since four months and eighteen days, co-

accused Sunny Daniel is the main accused, as per the prosecution story, he assaulted the injured Ishu Singh by knife and caused two injuries i.e. one lacerated wound over the shoulder of 15 x ½ cm and another lacerated wound on frontal parietal region of 14 x ½ cm and also caused displaced fracture in the vertebra at C6. As per the allegation present applicant assaulted the injured by hands an fits. The treating doctor opined that the injury caused to the injured was grievous in nature, there is no material to demonstrate that the injuries sustained were fatal to life. The knife has been seized from co-accused, nothing has been seized from the present applicant, the injured remained in hospital as in door patient from 24.11.2016 to 29.11.2016, thereafter no further complication has been shown in the charge sheet. As present applicant has not taken the active participation in the matter, his case is distinguishable from the main accused Sunny Daniel, he may be enlarged on bail, he will not commit any offence in future.

4. Per contra, learned counsel for the State opposes the bail application and would submit that as per the evidence collected by the police the applicant was present at the spot and shared the common intention with main accused and assaulted the injured by hands and fits, which goes to show his participation in the matter. Hence, his application may be dismissed.

5. Perused the entire material.

6. The applicant is in jail since four months and eighteen days, he is first offender, not caused injuries by any weapon though taken part in incident and assaulted by hands and fits. There is no any report on MLC/ treating doctor that injuries were fatal to life, injured was discharged on 29.11.2016 and thereafter there is no material to demonstrate that the injured suffered any complication on account of those injuries. Looking to the part of the present applicant as the matter is distinguishable from main accused, I am inclined to grant one opportunity to the applicant, so that he shall not commit any similar or other offence in future.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with one solvent surety of like sum amount to the satisfaction of Fifth Additional Sessions Judge, Bilaspur for his appearance before the said Court as and when directed.

9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Cort below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicant remains absent without any

sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE

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